

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

STATION CASINOS, INC. CH: 11 09-52477-GWZ

MOTION OF GREEN VALLEY RANCH GAMING LLC
FOR A PROTECTIVE ORDER FORBIDDING
DISCOVERY BY THE UNSECURED CREDITOR'S
COMMITTEE, OR IN THE ALTERNATIVE
LIMITING THE SCOPE OF THE UNSECURED
CREDITORS' COMMITTEE'S DOCUMENT AND
DEPOSITION REQUESTS

In re:

STATION CASINOS, INC. CH: 11 09-52477-GWZ

MOTION BY OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF GREEN VALLEY
RANCH GAMING (1) TO COMPEL DISCOVERY
AND (2) FOR RELIEF FROM IMPROPER
CONFIDENTIALITY RESTRICTIONS

U.S. Bankruptcy Court
300 Booth Street
Reno, Nevada 89509

May 18, 2011
2:35 p.m.

BEFORE THE HONORABLE GREGG W. ZIVE, Judge

APPEARANCES:

For the Debtors:

David Seligman
Eliot Adelson
KIRKLAND & ELLIS
Laury McCauley
LEWIS & ROCA

APPEARANCES: (Continued)

For Station Casinos: Daniel Perry
MILBANK TWEED HADLEY & MCCLOY

For Dr. Nave: Glen Walter
SKADDEN ARPS SLATE MEAGHER FLOM
Laury Macauley

For the Official Committee: Robert Stark
Morton Siegel
Jeremy Coffey
Michelle Kazmer
BROWNRUDNICK LLP

For the Steering Committee: Ben Murphy
Jason Wolf
DEWEY LEBOEUF LLP

For Lindholm, Greenspun
Corporation and GCR Gaming: Clark Vellis
BROWNSTEIN HYATT FARBER SCHRECK

For Wilmington Trust: Louis Bubala, Jr.
ARMSTRONG TEASDALE
Karen Dine
PILLSBURY FIRM

Also Appearing: James Patrick Shea
Oganna Atamoh
James Brandt
Thomas Kreller
Bonnie Steingart
Sandy Qusba
Erika Pike Turner

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1 THE COURT: Please be seated. This is in the matter
2 of Station Casino, Inc., jointly administered cases,
3 specifically in the GVR case. May I have appearances in the
4 courtroom, please? Only from those counsel that intend to
5 participate in the hearing, not those that are just monitoring
6 it.

7 MR. SELIGMAN: Good afternoon, Your Honor. David
8 Seligman from the firm Kirkland Ellis on behalf of the GVR
9 debtors.

10 MR. ADELSON: Good afternoon. Eliot Adelson,
11 Kirkland and Ellis, on behalf of the debtors.

12 MR. PERRY: Good afternoon, Your Honor. Dan Perry
13 from Milbank Tweed on behalf of Station Casinos, Inc.

14 MR. WALTER: Glen Walter from Skaaden Arps on behalf
15 of Dr. Nave.

16 MR. STARK: Good afternoon, Your Honor. Robert
17 Stark, Martin Siegel and Jeremy Coffey from Brown Rudnick LLP
18 on behalf of the Official Committee of Unsecured Creditors.

19 MS. KAZMER: Good afternoon, Your Honor. Michelle
20 Kazmer, the counsel for the Official Committee.

21 MR. MURPHY: Good afternoon, Your Honor. Ben Murphy
22 and Jason Wolf of Dewey LeBoeuf LLP for the steering committee
23 of first lien lenders.

24 MR. VELLIS: Good afternoon, Your Honor. Clark
25 Vellis from Brownstein Hyatt Farber Schreck on behalf of lender

1 Lindholm, Greenspun Corporation and GCR Gaming.

2 MR. BUBALA: Your Honor, Lou Bubala from Armstrong
3 Teasdale and I'm joined with Karen Dine from the Pillsbury Firm
4 on behalf of Wilmington Trust.

5 MS. MACAULEY: Good afternoon, Your Honor. Laury
6 Macauley of Lewis and Roca, local counsel for the debtors.

7 THE COURT: By telephone, please.

8 MR. SHEA: Good afternoon, Your Honor. James Patrick
9 Shea of Shea and Carylton appearing on behalf of the debtors as
10 Nevada counsel.

11 MS. ATAMOH: Good afternoon, Your Honor. Oganna
12 Atamoh, local counsel for Jeffries and Company, Inc. Also
13 appearing telephonically is James Brandt, counsel for Jeffries
14 Company and Inc., and the pro hac application is pending, Your
15 Honor.

16 MR. BRANDT: And this is James Brandt, Your Honor, of
17 Latham and Watkins, here for Jeffries.

18 MR. KRELLER: Good afternoon, Your Honor. Thomas
19 Kreller of Milbank Tweed Hadley and McCloy on behalf of Station
20 Casinos, Inc.

21 MS. STEINGART: Good afternoon, Your Honor. This is
22 Bonnie Steingart from Fried Frank on behalf of the Official
23 Committee of Unsecured Creditors for Stations, Inc.

24 MR. QUSBA: Good afternoon, Your Honor. Sandy Qusba,
25 Simpson Thacher and Bartlett, counsel for Deutsche Bank Trust

1 Company America -- the administrative agent on the Op-co credit
2 facility.

3 THE COURT: All right. I have two motions that are
4 pending today. The first is the motion of Green Valley Ranch
5 Gaming, LLC, that's commonly referred to as GVR, the debtor,
6 seeking a protective order forbidding discovery by the
7 unsecured creditors committee, or in the alternative limiting
8 the scope of the unsecured creditors committee's document,
9 deposition request. The second is a motion by the committee to
10 compel discovery and formerly -- improper confidentiality
11 restrictions.

12 All right. Obviously these two motions interrelate,
13 therefore I'm going to make a record of all pleadings I
14 reviewed. I'm going to ask counsel please pay attention
15 because I am going to limit argument. We have a limited amount
16 of time. One thing I've noted in many of these pleadings is
17 when we eliminate the hyperbole and the adjectives, they'd all
18 fit within the page restrictions that this Court has. More
19 light can be shed by good reasoning and logic rather than by
20 what I call screaming briefs, and frankly my tolerance for
21 those is not very high.

22 All right. Regarding the motion filed by the debtor,
23 I signed an order shortening time on May 13th, 2011, Docket
24 Number 3055, to hear this matter because I am aware that
25 there's a confirmation hearing set for May 25th. Actually, I

1 think it's three confirmation hearings rolled into one. I do
2 know that at the time that I conducted the April 14th hearings,
3 the transcript of which I have before me is Docket Number 2856,
4 and which I have read its entirety and some counsel here today
5 have not. I indicated that I needed to know, I think it was by
6 May 6th, what would happen with the Aliante. What is the
7 status of the Aliante case, please?

8 MR. SELIGMAN: Your Honor, David Seligman again. The
9 status of that is that there was the voting deadline of, I
10 believe it was April 29th. The votes did come in. I do not
11 have the exact figures, but they were well in excess of --

12 THE COURT: Is there a plan? Remember, I was to be
13 told whether or not there was even going to be a plan.

14 MR. SELIGMAN: Yes, there is a plan and the Aliante
15 lenders have voted overwhelmingly in favor of that plan, so --

16 THE COURT: Okay. So actually what I have is a
17 disclosure statement and a joint plan and there are three plans
18 and they're to be considered separately. They're the
19 subsidiary debtors, Aliante and GVR. The only objection and
20 only request for adjournment is dealing with GVR; is that
21 correct?

22 MR. SELIGMAN: Yes.

23 MR. STARK: Yes, Your Honor.

24 THE COURT: All right. I will certainly conduct a
25 hearing regarding the subsidiary debtors and Aliante on the

1 25th of May. In fact, that shouldn't be all that difficult
2 since there's no objection and they've been -- they're
3 consensual, as I understand it at this time. Is that accurate?

4 MR. SELIGMAN: That is accurate, Your Honor.

5 THE COURT: Is that your understanding?

6 MR. STARK: Yes, Your Honor.

7 THE COURT: Ms. Steingart, is that your
8 understanding? You're the committee -- Ms. Steingart, can you
9 hear me?

10 MS. STEINGART: Yes, Your Honor, it's my
11 understanding as well.

12 THE COURT: Thank you very much. Mr. Kreller, is
13 that your understanding?

14 MR. KRELLER: It is, Your Honor.

15 THE COURT: Does anybody disagree with that? All
16 right.

17 Before I signed the order shortening time, I reviewed
18 Docket Number 3050, which was the ex-parte application. I
19 reviewed Docket Number 3051, which is the affidavit of James
20 Patrick Shea and I reviewed the attorney information sheet.
21 The conclusion that I drew was that the parties and the counsel
22 stipulated that I could hear the motion for protective order
23 together with the motion to compel on shortened time. Is that
24 accurate?

25 MR. STARK: Yes, Your Honor, from the committee.

1 MR. SELIGMAN: Yes, Your Honor.

2 THE COURT: Yep. I read the motion for protective
3 order, Docket 3089, together with the exhibits attached
4 thereto. I would ask, because it's very difficult for me to
5 find all the exhibits when they're simply separated by a sheet
6 that says Exhibit A or Exhibit B, it may be colored on the
7 original, but by the time it gets to me there's no color. And
8 so -- and there's no tab, and that's why we ask to have them
9 tabbed, when you're looking at 26 of 39, 1 out of 6, it's very
10 difficult to find, it slows down the process, and obviously I
11 have enough to read in this case without spending time trying
12 to find the exhibits. I read them. So I need them properly
13 marked and I'd appreciate your assistance in that record.

14 At any rate, I read the motion. I read the
15 declaration of Eliot Adelson that was filed in support thereof,
16 Docket Number 3040, and it contains a chronology of the request
17 for production, the notices, the notice of intent to take
18 depositions and notice of deposition, et cetera, and they're
19 consistent with the pleadings that were filed on behalf of the
20 committee. So I'm familiar with those dates.

21 I read the -- the next pleading in order was the
22 joinder by Larry Lindholm, Greenspun Corporation, GCR Gaming,
23 that added nothing, simply joined. Docket Number 3058, joinder
24 by Station Casinos, Inc. and Kevin Kelly. And once again, it
25 simply joined, it didn't add any substantive argument. Docket

1 Number 3060 is a little different. This was a pleading filed
2 on behalf of the steering committee for the first lien term
3 lenders to GVR and that, as I indicated, was at Docket 3060
4 filed on the 13th of May. It, first of all, is in opposition
5 to the creditor committee's motion to adjourn the confirmation
6 hearing as it applies GVR. I'll wait until next week to deal
7 with that because that hearing is set. I have reviewed the
8 inter-creditor agreement, I am familiar with the terms, I know
9 what 31 says, I know what 54 says, I know what 62 says. And
10 frankly, I think it was the same law firm that dealt with some
11 of these issues in an unrelated case I had here a year or --
12 year or two ago when I also spent considerable time going
13 through an inter-creditor agreement.

14 The second part of the motion is a joinder in the
15 motion for protective order and that's the part of the motion
16 that I paid particular attention to today. I reviewed the
17 verified statement of Dewey and LeBoeuf, pursuant to Federal
18 Rule of Bankruptcy Procedure 2019(a), which was helpful because
19 it contained some information that is only partially complete
20 in my mind.

21 Then in the next docket is Docket Number 3076, the
22 joinder in the motion by Seaport Group and Oppenheimer and
23 Company. I think the reason they're both together, as I
24 understand it, some of the individuals who were involved on
25 behalf of debtor moved from Oppenheimer to Seaport and that's

1 why they're both here and I'm aware of that. Once again, there
2 was nothing of real substance, simply a joinder.

3 I read the joinder filed as Docket Number 3077 by
4 Jeffries. Once again, not much in terms of substance. The
5 joinder filed by GVR is Docket Number 3086, and that's actually
6 also entered on behalf of Mr. Bible, who's a member of both the
7 transaction committee and the special investigation committee,
8 and who's consulting agreements were before me on April 14th of
9 this year. So I've read that as well. As I indicated, they're
10 simply joinders and I assume they would join in the arguments
11 that are being made. I don't know that I'll pay any particular
12 -- that I'll even have time to hear any additional argument
13 from those.

14 I read the joinder of Wilmington Trust FSB as first
15 lien collateral agent, filed as Docket Number 3088 on the 14th
16 of May. It's a little different. First of all, it actually
17 contains some evidence, the declaration of David Crichlow,
18 filed as Docket Number 3089, which I've read. And it also
19 indicates that it had agreed to provide certain information if
20 it received consent from GVR and GVR because hearings had been
21 set or whatever to not consent. So those documents, as I
22 understand it, have not been produced. Is that accurate?

23 MS. DINE: Your Honor, Karen Dine again for
24 Wilmington FSB. That is correct.

25 THE COURT: Thank you very much.

1 MR. ADELSON: Your Honor, actually, it's Eliot
2 Adelson from Kirkland and Ellis. The documents that were
3 requested from Wilmington Trust, we produced some of those
4 documents over the weekend. We can get into specific --

5 THE COURT: They weren't produced by Wilmington.
6 That's all I needed to clarify.

7 MR. ADELSON: Okay.

8 THE COURT: Then there was a response filed in
9 opposition, it's called a response, but it's an opposition to
10 protective order filed on behalf of the committee on the 16th
11 of May, Docket Number 3110. There was an amended response
12 filed the next day, on the 17th, as Docket Number 3148 that did
13 not change the substance, and the Docket Number 3148 is what
14 I've utilized and I think that was the intent; is that correct?

15 MR. STARK: Yes, Your Honor.

16 THE COURT: Thank you. And then there was a file
17 joinder by transaction committee member, Dr. Nave. I have read
18 that as well. So those are the pleadings that I've read
19 regarding the motion filed by the debtor.

20 As to the motion for -- filed on behalf of the
21 committee, I reviewed the ex-parte application for an order
22 shortening time, Docket Number 3081. I read the exhibits
23 thereto, which included the motion itself. I read the
24 declaration of Mr. Coffey, filed as Docket Number 3082; the
25 attorney information is Docket 3083. The notice of entry of

1 the order is Docket Number 3135 and the order itself, I
2 believe, is Docket Number 3125, is the order I entered on May
3 16th.

4 The motion is Docket Number 3078. I have read the
5 motion itself. I read the declaration of Mr. Coffey, filed as
6 Docket Number 3080, together with the exhibits, which I've
7 tabbed and annotated. I read the opposition of Wilmington
8 Trust, filed as Docket Number 3102, and it also contained the
9 -- was supported, I should say, by Docket Number 3103, the
10 declaration of Mr. Crichlow, and it reiterated, for most part,
11 the substance of what was provided to me in support of the
12 debtors' motion, that there's documents that they offered to
13 provide, the compliance certificates and borrowing notices
14 under the first lien credit agreement, and financial reports
15 provided to Wilmington Trust by the borrower or any other
16 guarantor for distribution and simply did not provide them
17 because it needed consent, did not receive the consent, and now
18 I've been informed that some of those documents may have been
19 provided.

20 I read the joinder of Dr. Nave and the objection to
21 the motion to compel, Docket Number 3143, which is a little bit
22 unusual because the objection itself wasn't filed until the
23 next day as Docket Number 3149 and I've read that's the
24 objection by GVR. I read the declaration of Mr. Adelson, filed
25 as Docket Number 3150. Once again, for the most part, the

1 chronology, as well as detailing what the debtor had offered to
2 produce. I read the declaration of David Agay, Docket Number
3 3151. I read the declaration of Dr. Nave, filed as Docket
4 Number 3152. I read the declaration of Mr. Bible, filed as
5 Docket Number 3155. I'm a little bit perplexed and confused.
6 There is a motion to seal the exhibit, is what's attached to
7 the declaration that I read different than what is been
8 requested to be sealed?

9 MR. ADELSON: It is the same exhibit, except that
10 we've redacted the information in what was attached because
11 it --

12 THE COURT: So I had a redacted version?

13 MR. ADELSON: That's correct.

14 THE COURT: I'm going to grant the motion to seal,
15 just as I've done earlier. There's no reason -- I don't think
16 there's any objection?

17 MR. STARK: None from us, Your Honor.

18 THE COURT: All right. I don't think it makes much
19 difference for today. In any event, the report is what the
20 report is. I'm aware of it, I think it was dated what,
21 February of this year? February 11th?

22 MR. ADELSON: It was dated February 10th.

23 THE COURT: February 10th, okay. So we have signed
24 the order.

25 MR. ADELSON: Thank you.

1 THE COURT: And I have read Jeffrey and Companies'
2 joinder in the objection, filed on 3155. I read the
3 declaration of James Brandt, filed in support of that joinder,
4 Docket Number 3156. I read the joinder filed on behalf of Mr.
5 Lindholm, Greenspun Corporation, GCR Gaming, LLC, Docket Number
6 3157 and the joinder of the steering committee, Docket 3158.

7 Are there any pleadings that have been filed
8 regarding either of these motions to which I have not referred?
9 No? Then I've read all the pleadings.

10 MR. SIEGEL: Your Honor, Martin Siegel from Brown
11 Rudnick.

12 THE COURT: Yes, sir.

13 MR. SIEGEL: In I believe it's the motion to compel
14 -- or the opposition to the protective order, I believe we
15 incorporated by reference some of the facts in the motion to
16 adjourn.

17 THE COURT: I had read the motion to adjourn last
18 week when I granted a request to allow the motion to exceed our
19 page limitation and I had made it clear that I would not grant
20 any such orders in the future for -- when the request was made
21 after the pleading was filed. The reason for the page
22 limitation, I always assumed, was self-evident. The idea is to
23 write as concisely and succinctly as possible, ask the Court
24 for the relief that you want, provide the authority and then
25 summarize. There is really no need for a lot of hyperbole and

1 use of adjectives. You're writing to a court and it should
2 have no other purpose other than to educate and persuade and
3 this Court generally is persuaded by good, concise writing
4 rather than what I consider to be very loud briefs, because I
5 have often found that there's usually a correlation between
6 volume and the absence of substance. And you don't have to be
7 redundant. We do read pleadings here. So you usually only
8 have to tell me two or three times before I get it. I don't
9 need to see it six or seven, all right?

10 MS. MACAULEY: Your Honor, Laury Macauley, Lewis and
11 Roca. I didn't want to interrupt, but there was one pleading
12 that was brought to my attention that you might have missed in
13 your reading. There was a joinder today, Docket Number 3159,
14 filed by Stations, Inc., and that was a joinder to GVR's
15 objection --

16 THE COURT: I did read that, if I didn't make
17 reference to it. I have been provided with that.

18 MS. MACAULEY: Okay. Thank you. Just wanted to --

19 THE COURT: Thank you. I think I did mention that.

20 MR. STARK: Your Honor, this is a little off the
21 point, I don't have any additional pleadings that Your Honor
22 didn't run through in the litany, but I would make the comment,
23 just for education purposes, we were flying out here this
24 morning and the pleadings that were filed this morning,
25 frankly, haven't had any opportunity to review it from the

1 committee's perspective. I think I understand what they say --

2 THE COURT: I can't hear you, I'm sorry.

3 MR. STARK: I apologize. Is that better?

4 THE COURT: Yes.

5 MR. STARK: Because of the flight this morning,
6 certain pleadings were filed this morning and we frankly
7 haven't had an opportunity to review them and digest them as
8 well as we would like. I think I understand what they say, I'm
9 just putting it out there for the sense that --

10 THE COURT: In other words, you're in exactly the
11 same position I'm in.

12 MR. STARK: Perhaps --

13 THE COURT: Is that correct?

14 MR. STARK: Perhaps that's the case, Your Honor.

15 THE COURT: That -- it is the case. I don't get to
16 read them in advance either. Now, I may have had a few more
17 minutes to read them, that's all.

18 I really do not need to hear, for the purpose of
19 argument today, a reiteration of all the arguments that are
20 contained in the points and authorities. I'm aware of the
21 chronology. I know that, I think the committee was appointed
22 on or about the 29th of April. The purported -- or proposed
23 counsel for the committee was selected around the 3rd of May.
24 That -- that's Brown and Rudnick. That Brown and Rudnick had
25 represented some -- and I'm not sure which, of the -- what are

1 called the second lien lenders. That Brown and Rudnick and its
2 financial advisor, was it GCL -- is that the right --

3 MR. STARK: GLC Advisors.

4 THE COURT: GLC had been involved in this case since
5 last summer, had access to the data room, apparently according
6 to the one declaration had spent about 60 hours in the data
7 room. So there is some familiarity with this case. I would
8 point out that the pleadings filed by the committee do not
9 really address that issue at any great length.

10 Oh, in addition, I also went back and reviewed all my
11 minutes and my handwritten notes that I made in preparation for
12 the hearing I conducted on the 14th of April, because I touched
13 on a number of issues that were raised. I noticed there was
14 some concern about unfair discrimination due to critical
15 vendors. One only has to go to the transcript to see that I
16 dealt with that directly starting at Page 101 of the transcript
17 and limited the payments to "critical vendors" in the GVR case
18 to slots and to those providing gaming service and no one else.
19 So it was not a general critical vendor pleading, because I
20 think I evidenced at that time my concern about potential
21 unfair discrimination and limited it, as opposed to the
22 critical vendor motion that I granted in the subsidiary
23 debtors' case, because they're -- all unsecured creditors were
24 to be paid and it was more a matter of timing than anything
25 else. So that -- one point that I thought was -- should be

1 made. I don't know what's ringing, but I certainly hope it's
2 off.

3 You know, I'm not startled by what I've read. The
4 committee needs to conduct, it believes, a great deal of
5 discovery so that it can fulfill its fiduciary obligations of
6 conducting investigations that it thinks is necessary. Of
7 course, that should recognize the reality of the case, and the
8 reality of the case is the three members of the committee,
9 which are MFS Investment Management, Panton Capital Group and
10 Babson Capital Management, LLC, at least two of them have been
11 involved in this case for some time. They are parties to an
12 inter-creditor agreement, which I've indicated I have read. It
13 was provided to me regarding the position of the steering
14 committee for the first lien creditors.

15 On February 16th, 2007 there was a first lien credit
16 agreement and a second lien credit agreement that were entered
17 into. The amount due to the first lien creditors is slightly
18 in excess of -- at least it was on April 12th, the date of the
19 filing of these petitions, \$602 million. The second lien
20 credit agreement was in the principal amount of \$250 million
21 and there was approximately \$22,000,658 in interest and fees
22 that would be added to it for a total debt of approximately 273
23 million, and that's what I had before in the hearings that I
24 conducted on the 14th of April.

25 On the same date of those two agreements, there was

1 an inter-creditor agreement entered into, that is February
2 16th, 2007. I am familiar with the terms of it.

3 The sale, which is the substance of the proposed plan
4 of reorganization provides for a purchase price of 500 million
5 and then there's, I think, about 175 million that -- excuse me,
6 1.75 million that's a kicker fee. There was a plan support
7 agreement that had been -- that was also provided and the plan
8 support agreement was supported by a majority of the second
9 lien creditors as well as, of course, the first lien creditors,
10 and I'm aware of all of that.

11 What I don't know, and what I could not find, because
12 one, I may have run out of time, I do not know the amount of
13 the claims by the three members of the committee. Could --
14 counsel, could you --

15 MR. STARK: I wish I knew the numbers off-hand, Your
16 Honor. I can certainly get them for you in relative quick
17 order, I just don't know them off the top of my head. I
18 apologize.

19 THE COURT: Okay. I'm trying to figure out the
20 economic interests that are at play here, because I know --
21 because I did read the motion to adjourn, some time ago, as I
22 indicated. If the sale, as proposed by the plan, is confirmed,
23 then the first lien creditors are short more than \$103 million.
24 The second lien creditors would be short the 273 million. You
25 add those together and that's \$373 million and before there is

1 any money for unsecured creditors. And, of course, that
2 doesn't address the administrative burden that these cases will
3 have to shoulder. And, of course, I am assuming the committee
4 professionals will want to be paid from assets of the estates.
5 If that's correct, and if the 500 million is an accurate value
6 as dictated by market in a sales process that was, in fact,
7 fair, the result appears to be fairly straightforward. I'm not
8 sure, but I went back and looked, but I believe all the second
9 lien creditors were noticed of the hearings that were conducted
10 on the 14th of April; is that correct?

11 MR. SELIGMAN: That is correct, Your Honor.

12 THE COURT: Yeah. And I saw no objections from any
13 of these three to any of the relief that was being sought, that
14 raised any of these concerns. I understand the committee
15 wasn't formed, but these were folks who had been involved pre-
16 petition and 1109(b) says that they are a -- and should be
17 permitted to speak. They didn't.

18 Perhaps they felt constrained by the prohibitions
19 contained in the inter-creditor agreement. I don't know
20 because I don't have any evidence, but now because they're
21 members of the committee, do not feel that they're bound by
22 their contractual obligations. My problem is, until I approve
23 a settlement, they're still secured creditors, are they not?
24 Aren't you secured? Aren't those three entities secured
25 creditors?

1 MR. STARK: I'm -- would you like me to address this
2 now?

3 THE COURT: Yes, are -- is that a difficult question.

4 MR. STARK: No.

5 THE COURT: Are they secured creditors?

6 MR. STARK: Not according to the debtors.

7 THE COURT: Why not?

8 MR. STARK: 506, Your Honor.

9 THE COURT: Because they'd be unsecured because
10 there's not enough value, right?

11 MR. STARK: Right, nor does that --

12 THE COURT: Okay. If you are correct, and your
13 allegations actually are based on some type of fact, and let's
14 assume that a sale could be had or other value for let's say
15 \$700 million, which would be approximately a million dollars
16 over what's due the first lien creditors, where would that go?

17 MR. STARK: Well, I would presume at that particular
18 point in time, if there was active bidding and the collateral
19 -- collateral, I want to come back to that -- is, in fact,
20 valued above the hurdle, whatever it may be, let's use 602
21 million, sounds like a good enough number, we have active
22 bidding that continues, we get above that hurdle, I think the
23 United States Trustee at that moment in time would have to
24 rethink the 506. 506 is generally cut as of the petition date,
25 but there is the right for -- to allow that collateral position

1 to grow, and we deal with this all the time, where collateral
2 grows and ebbs and flows and --

3 THE COURT: And so, in effect, your clients then
4 could become secured?

5 MR. STARK: Accurate. And then they would be off the
6 committee.

7 THE COURT: All right.

8 MR. STARK: But that's --

9 THE COURT: We agree?

10 MR. STARK: We do. May I address the other points,
11 Your Honor?

12 THE COURT: No, I'm going to continue. Thank you.

13 The point being that the position of the second lien
14 creditors may, in fact, be modified and they would be treated
15 as secured creditors, perhaps up to the total of the \$873
16 million, the total secured debt. So I do, just to let you
17 know, have some concern regarding the position of a committee
18 when it purports to act for the benefit of all unsecured
19 creditors when all unsecured creditors will not get any money,
20 depending upon the value of the collateral and perhaps the
21 ability then of the members of that -- of the committee, even
22 if they can act with -- outside the prohibitions if those
23 prohibitions are applicable, as interpreted by at least the
24 steering committee. And I'm not saying that that's a correct
25 interpretation, but if it is then those prohibitions would

1 apply to them because they would not be unsecured creditors.
2 They can only act -- because Paragraph 3.1 only gives them
3 rights and remedies of unsecured creditors. And I assume
4 that's the type of argument I'll see in opposition to the
5 position taken by the steering committee, that right now we are
6 unsecured, so we're not bound, but of course then, I'll have to
7 deal with the references to 5.4 and the specific prohibitions
8 of 6.2. I understand that. I don't know what I'll do with
9 those, those aren't properly before me.

10 But the point is, is that the position of the members
11 of the committee is certainly are not cast in stone at this
12 time. And there is some question as to whether they are -- in
13 my mind, truly representative of "all" unsecured creditors.
14 Certainly, their position as secured creditors would be greatly
15 enhanced if there were liens to be avoided.

16 Now, the discovery. This -- there's no question that
17 this is extensive and broad discovery. It's referred to by
18 counsel for the committee as -- I think the word was albeit
19 comprehensive, it is far beyond comprehensive. It is -- it
20 strikes me as the committee has asked for everything it could,
21 it has ignored the Federal Rules of Civil Procedure, limiting
22 the amount of depositions that can be taken. It's asked for
23 times that aren't consistent and responses consistent with the
24 Federal Rules of Civil Procedure, nor with the local rules of
25 this Court. It did not ask this Court for permission to act in

1 such a manner, simply presumed it could do so. I have a
2 problem with that.

3 I understand that this is on a short schedule, but
4 the proper procedure is to seek relief from the Court and let's
5 deal with these issues upfront. And then the Court can assist
6 in making sure that the discovery is consistent with the rules,
7 moreover is consistent with Federal Rule of Civil Procedure 1,
8 for the efficient and economic management of this case. And
9 then this Court could assist if the parties could not arrive at
10 a prioritization of the discovery that might be appropriate.
11 That did not happen.

12 I do know that there were discussions that occurred
13 on May 6th, primarily between counsel for -- proposed counsel
14 for the committee and counsel for the debtor. I know that the
15 composition of the committee was raised on the 6th of May. I
16 know that on the -- also on the 6th of May that GVR was served
17 with a request for production of documents. Then, three days
18 later, document request and depo notices were sent to SCI and
19 Wilmington Trust that were, I think, 13 depo notices on that
20 date. Then on the 11th additional deposition notices regarding
21 Mr. Wright, I remember Mr. Wright from some of the original
22 pleadings that were filed in GVR before the settlement, and
23 with Oppenheimer.

24 I know that there were telephone calls placed and
25 actually discussions that occurred, Mr. Coffey was party to

1 one, on the 9th dealing with some of these discovery matters.
2 There were other discussions on the 10th. Mr. Adelson said
3 that GVR would produce certain documents, those are the
4 documents in the data room, and would agree to certain
5 depositions. That it would do so without waiving its right to
6 object. There were issues regarding the confidentiality
7 agreement. Counsel for the committee agreed to the
8 confidentiality agreement, reserved its right regarding certain
9 provisions, such as sharing the information with committee
10 members.

11 It is also alleged that the data room contains stale
12 information, about 140 documents, I forget how many thousands
13 of pages, but it's not current information and it, the
14 committee, wants current information, which when one reads, for
15 example, request number five in the request for production and
16 the -- so far as I can determine, on a time limited --
17 unlimited time of that and ask for all documents, that doesn't
18 appear to me to be current at all because it could have be
19 limited from the time of the documents in the data room to the
20 date forward, but that is not what the requests seek.

21 There were discussions that occurred on May 11th.
22 That's when the confidentiality agreement was signed with the
23 reservation by Brown Rudnick. On the 12th there was additional
24 production. Also on the 12th of May GLC signed a
25 confidentiality agreement and also had access to the data room.

1 It was on the 12th that the three depositions were offered by
2 the debtor. And then I think on the 15th there were revised
3 confidentiality agreements regarding committee designees that
4 would be able to review information that had been provided and
5 I have not seen what has occurred since that date.

6 I think that generally, if not specifically,
7 summarizes the chronology that has occurred. I have both, as I
8 indicated, declarations from committee counsel, as well as for
9 the debtor, and I think that that sums them up. The committee
10 has asked, I think, for a great deal of discovery, obviously,
11 in my mind with the understanding that it would probably be
12 whittled down by the Court. And, of course, the opposing
13 parties want to severely limit it, understanding that they
14 might well be ordered to provide more than they want. And so,
15 each is staking out their positions, I think I understand that.

16 The debtor reiterated and repeated that there was no
17 meet and confer. Well, I think the parties have, in fact,
18 attempted to meet and confer, they just haven't been able to
19 agree very much. So I don't put a great deal of weight on that
20 particular argument.

21 I am very greatly concerned about the administrative
22 burden would be placed on this Court that might not have any
23 benefit. And I've been through this exercise before, in the
24 day we get millions of dollars of fees, I'm told well, we
25 needed to do that just to make sure that we fulfilled our

1 fiduciary obligations and you can't look at a fee application
2 in hindsight, it must be prospective. Well, I'm putting
3 everybody on warning; I will be looking at it in hindsight.
4 This is -- these cases are not opportunity for open coffers.
5 And that's why, in my opinion, the proper procedure, and there
6 are many cases that make this point, is that the discovery
7 should go forward, if at all, in an orderly manner. You don't
8 need -- and of course you knew you didn't need 14 depositions.
9 You -- I am not going to permit at this point, I think, a
10 discovery that would just require that the work of the
11 transaction committee and the special investigation may be
12 totally disregarded and start over.

13 I do think that the committee is entitled to make a
14 determination and conduct reasonable discovery and being able
15 to make that determination that, in fact, the work of the --
16 that the process employed by both of those committees was
17 appropriate. Any time that there are affiliates that are
18 insiders that are involved in a transaction, there is a higher
19 level of scrutiny that must be applied. I went back and read
20 -- as I indicated, read the transcript of the April 14th
21 hearing. At that time it was not anticipated -- either
22 anticipated or unanticipated, whether a committee would be
23 appointed, but as I read the opposition -- well, first as I
24 read the motion filed by the debtor it struck me, as well as it
25 in the opposition to the motion to compel filed by the

1 committee, that it is anticipated that, at least impliedly,
2 there may be a need to continue the hearing on the GVR plan.

3 Let me put my finger on what I'm talking about.
4 Paragraph 34 in the debtors' motion, that's at Page 9, Line 9.

5 "If the Court determines the unsecured
6 creditor's committee is properly constituted,
7 document production should be limited to those
8 documents already produced and depositions should be
9 limited to the three individuals identified."

10 Obviously, I can't make that determination today and
11 there's a hearing set on the motion. So my question is, why
12 are we putting the cart before the horse? It appears to me
13 that it might be more appropriate to resolve that issue and
14 then make a determination of the discovery that has to be
15 accomplished.

16 The subsidiary debtors' cases relate to the plan that
17 has been confirmed in what I would call the main case -- the
18 first case of Station Casino. If the committee is not properly
19 constituted then the Office of the U.S. Trustee has to make a
20 decision whether it's going to form a new committee. Then the
21 new committee will have fiduciary obligations. Certainly, the
22 debtor had to be aware that this possibility existed,
23 especially when the sale is to an entity in which the insider
24 is prominent.

25 So I am prepared to rule based upon the pleadings on

1 a number of the issues. I would allow, if present -- if this
2 committee is properly constituted, certain discovery to occur,
3 rather than a shotgun approach, take everything, throw it
4 against the wall and let's see what sticks approach. That is
5 not the way of managing a case, because all the committee is
6 entitled to is a reasonable opportunity to represent the
7 interest of unsecured creditors. As I indicated, I need to be
8 able to be comfortable that, in fact, that's who it's
9 representing. And that, of course, is balanced against the
10 strict scrutiny to which insider transactions are subject.

11 And I, frankly, intend to avoid the mistake that I
12 think I made in one of the earlier cases where the
13 administrative claims that provided no benefit to the estate,
14 as indicated even by the appeals and unrelated cases that
15 involved subordinated noteholders, that settled for one-third
16 of the attorney's fees that were being requested and nothing
17 for any of the claims. I'm not going to let that happen again.

18 So now you have a general idea of how I have analyzed
19 these matters. I don't know if the parties have been able to
20 arrive at any further accommodations since the filing of these
21 pleadings. I'm going to ask to hear from counsel for the debtor
22 at this time. It's your motion for protective order.

23 MR. ADELSON: Thank you, Your Honor. May I have 30
24 seconds before I do that to confer?

25 THE COURT: Sure can. Thank you. We're going to be

1 done by 4:30 folks. And I appreciate and I want to thank
2 counsel for moving up their time a half an hour.

3 (Counsel Confer)

4 THE COURT: While you're conferring, I should comment
5 on one other point. I did read the motion to adjourn, it's
6 lengthy. I took a look briefly at the -- what was called the
7 preliminary objection, which exceeded our page limitation and I
8 refused to sign the order because of the earlier order entered,
9 so I assume it's going to be reduced. I think I limited that
10 to 25 pages. I have a request for -- to extend the page
11 limitation now for response to that objection, all of which
12 indicates to me, that based upon the other motions that I have
13 set on that day, that there may not be sufficient time and that
14 taken light -- the position that's being advocated in the
15 pleadings before me today, that it might be far better and
16 efficient to use the 25th for the subsidiary debtors, Aliante
17 debtor plans, deal with some of the motions, most of which --
18 some of which are not the -- I don't know if there's going to
19 be objection, for example, the position may have changed
20 regarding proposed counsel for the committee, but we could save
21 time by not -- if I have to consider the motion to adjourn, I
22 will consider it, of course, on that date.

23 It makes it very difficult to -- for me to
24 contemplate having sufficient time then to deal with the
25 objections. And it makes far more sense to deal with the

1 threshold issue, which is the constitution or composition of
2 the committee in any event. That's -- if I were to put these
3 in order of how they should be resolved, that's how I'd do it.
4 I cannot use today, and will not use today, to provide any type
5 of an advisory opinion on that. I'm not going to do that. So
6 I realize while you were conferring that I probably hadn't
7 fully explained the various matters that I was looking at in
8 arriving at my tentative conclusion. Now, if you need an
9 additional few seconds to converse --

10 MR. ADELSON: I do.

11 (Counsel Confer)

12 THE COURT: Go ahead.

13 MR. ADELSON: Thank you, Your Honor. It's Eliot
14 Adelson for Kirkland and Ellis. To begin, that paragraph was
15 not meant to intend in any way that we wanted, anticipated or
16 looked forward to a continuation.

17 THE COURT: No, but I thought it provided the correct
18 evidence, perhaps.

19 MR. ADELSON: I will -- I'll address that in a
20 minute.

21 THE COURT: I'm not saying that you were stipulating
22 to it. What I'm saying is, I think that's a pretty good idea.

23 MR. ADELSON: If I could put a question to you, if
24 the Court rules next week and determines that the committee is
25 not properly constituted and the U.S. Trustee is here and makes

1 -- has made a decision at that time that they will not appoint
2 new members, would the Court be prepared to move forward on
3 that day?

4 THE COURT: Move forward on what?

5 MR. ADELSON: On confirmation.

6 THE COURT: No. There's only so much time. I really
7 don't want to sound petulant, or presumptuous, but there's a
8 whole bunch of you folks out there and there's only one here,
9 and I need to read and be able to understand and think about
10 what is the correct result. Frankly, there's a matter of time.
11 I've already had to move hearings the day before so I could
12 read all the pleadings, prepare for the hearings on the 25th,
13 and frankly in a matter that, if the parties had said no, I
14 would have held.

15 I already know what I'm going to be doing this
16 weekend and I'm retired and failing at retirement badly. My
17 point being, I don't know that I could do the job correctly and
18 that is troublesome to me. And I know what the debtor wants.
19 I understand that and that's why I spent considerable time
20 going back to make sure that the linkage -- that I, in fact,
21 could separate those confirmation hearings, and I believe I
22 can. And I don't think -- I was not told on the 14th of April
23 that they were all necessarily tied together.

24 The subsidiary debtors' plan clearly is directly
25 related to the plan I confirmed earlier. That has to happen.

1 That will not be adjourned. Even if there had been objection
2 by the committee, that would have been heard. I understand
3 that, but I -- without reading all of the opposition, to the
4 motion to adjourn, I am willing, based upon my ruling on the
5 25th regarding the composition of the committee, I'll move
6 other matters to get this thing set. I'll do that, so that we
7 do not have to wait a great amount of time. And that will also
8 tie into an orderly discovery process if necessary.

9 I'm going to allow some discovery to occur even
10 before the 25th. I'm not going to put a standstill in place.
11 And you folks have already recognized the reality of that
12 situation. You've already begun to provide documents.
13 Certainly I will allow certain depositions and the committee
14 can begin to conduct a reasonable discovery program. And --
15 with the understanding that if I rule against it that, of
16 course, that information might be available if there's another
17 committee, but there is a risk regarding any award of fees or
18 other ramifications down the line. That's all I'm saying.
19 There's a certain assumption of risk that's going to go -- it's
20 already happened. Look at the work that's been done since the
21 what, 3rd of May. So yes, I'm trying to be as candid with you
22 as I can.

23 MR. ADELSON: And I appreciate that. And in response
24 to that, I would remind the Court, because I know you've read
25 the pleadings, that within there there are deadlines that we

1 outline regarding financing --

2 THE COURT: I understand that.

3 MR. ADELSON: -- and the APA. And it looks like to
4 us that around June 15 is our -- we must be confirmed.

5 THE COURT: If I -- as I said, if I have to move
6 other matters, I'll do it.

7 MR. ADELSON: Okay. With respect to next week and
8 discovery, although we don't believe that this committee is
9 properly formed --

10 THE COURT: Everybody is reserving their arguments.
11 Nobody has to tell me that. I understand that.

12 MR. ADELSON: Excellent. We have undertaken to do
13 the reasonable efforts that you've described. We have given
14 them discovery in discrete categories that address --

15 THE COURT: What about the language they objected to
16 in the confidentiality agreement?

17 MR. ADELSON: They object -- I think that we have --
18 the confidentiality agreement, we now have let's call it two
19 versions. Version one was professional eyes only. They raised
20 the issue in one of their pleadings that they wanted their
21 members, that we were not allowing them to perform their
22 fiduciary duties. We said fine, let's compromise, and on
23 Sunday I sent them a draft of a new confidentiality agreement.

24 THE COURT: Yeah, I referred to that in my opening
25 statement.

1 MR. ADELSON: Exactly. We had not heard anything
2 about that until this --

3 THE COURT: Where are we on the confidentiality
4 agreement? I refuse to think that this has to be a major
5 issue.

6 MR. COFFEY: It doesn't, Your Honor. It -- because
7 it pertains to the members individually, we've sent it out them
8 for their general counsels' to review. We'll get comments back
9 and I think we can resolve that very easily.

10 THE COURT: I want that done. There's no reason to
11 have that not being done. And I really don't care what the
12 members of your committee say, you're here speaking on behalf
13 of. I don't have a problem with the language. It doesn't need
14 to have much tweaking.

15 MR. COFFEY: We'll get it done, Your Honor.

16 THE COURT: I think committee members are entitled,
17 but there should be strict confidentiality thereafter. That's
18 what I'm saying and I think that's what the language says. And
19 you folks could do a better job writing it than I could
20 speaking it, okay?

21 MR. COFFEY: We'll take care of it, Your Honor.

22 THE COURT: That takes care of that.

23 MR. ADELSON: So what we have done is tried to do
24 exactly what Your Honor has indicated, an efficient and
25 economic process here. We've offered up the discrete documents

1 that address the issues that they have raised and address the
2 issues that the Court has indicated would be considered next
3 week in our meeting. We have also offered the depositions of
4 Dr. Nave, Mr. Bible and Evan Pearson, who is the
5 Oppenheimer/Seaport --

6 THE COURT: You've offered Bible for what, the 18th,
7 Dr. Nave for the 19th and I assume Mr. Pearson was with
8 Oppenheimer, now with Seaport?

9 MR. ADELSON: Exactly. And in light of the Court
10 setting the hearing today, we informed the committee that we
11 weren't going to have Mr. Bible available, but that he would be
12 made available to them before the 25th. We have offered Dr.
13 Nave tomorrow. He will be sitting and the committee has issued
14 another subpoena and that deposition, we think, will be going
15 forward tomorrow morning.

16 THE COURT: Is that correct?

17 MR. COFFEY: Yes, it is, Your Honor.

18 THE COURT: Thank you.

19 MR. ADELSON: Mr. Pearson is available in New York on
20 Friday. We've not heard any confirmation or location or
21 time --

22 THE COURT: Any objection to taking that deposition?

23 MR. COFFEY: Your Honor, we've been discussing with
24 counsel whether or not there are other days we can --

25 THE COURT: I'm sorry, somebody on the telephone is

1 doing something that's interfering with our ability to record.
2 So I --

3 THE OPERATOR: Yes, Your Honor, I have muted her line
4 now. This is the operator.

5 THE COURT: Thank you. Are they on the line or not?

6 THE OPERATOR: Yes, they are the line. This is
7 coming from Ms. Bonnie Steingart. I muted it.

8 THE COURT: Thank you. Ms. Steingart -- thank you.
9 Go ahead, sir.

10 MR. COFFEY: Thank you, Your Honor. Jeremy Coffey of
11 Brown Rudnick. We have asked counsel whether or not Mr.
12 Pearson might be available on another day because of the
13 importance of his deposition, we're still getting documents as
14 late as this weekend --

15 THE COURT: I know you are.

16 MR. COFFEY: -- and have not had a chance to fully
17 digest those. I think it'd be relevant to Mr. Pearson's
18 deposition, so we've asked if we could have an accommodation to
19 have him on another day.

20 THE COURT: What about Mr. Bible?

21 MR. COFFEY: Mr. Bible, we'll do on Monday when he's
22 been offered.

23 MR. ADELSON: Yep, that's right.

24 THE COURT: So you've got Mr. Bible, Mister -- and
25 Dr. Nave set and what you need to do is maybe have a day or two

1 more before Mr. Pearson.

2 MR. COFFEY: We said we'd do it over the weekend,
3 next Monday, whenever it fits.

4 THE COURT: Is that acceptable to counsel for the
5 debtor?

6 MR. ADELSON: He's not available over the weekend and
7 we've informed counsel of that, that he is -- has other
8 commitments over the weekend and he's traveling on Monday. And
9 that's why we -- he doesn't live in New York, but he is working
10 in New York this week.

11 THE COURT: Where does he live?

12 MR. ADELSON: He lives in LA. So he may be available
13 next week in LA. I can't confirm that right now.

14 THE COURT: All right.

15 MR. COFFEY: Your Honor, we can certainly work with
16 them to figure out a date.

17 THE COURT: Let's get it done. Those are the three I
18 was going to certainly order. I see no reason of -- I think
19 you should take those depositions. Do you have any idea of the
20 length of time that you need for those depositions?

21 MR. COFFEY: I don't know that we can say for
22 certainty today. I -- if -- in relative terms, I think Mr.
23 Pearson and Mr. Bible will be close to seven hours. Mr. Nave,
24 I hope, will be shorter than that.

25 THE COURT: I'll allow eight hours for Mr. Bible, and

1 that would include break time folks, so you control that. You
2 obviously have to provide the witness with some opportunity to
3 take a break.

4 MR. COFFEY: Understood.

5 THE COURT: And it was Mr. Pearson you thought would
6 take some time as well?

7 MR. COFFEY: Yes, Your Honor.

8 THE COURT: Eight hours. And Dr. Nave, six hours.

9 MR. COFFEY: We'll make that work.

10 THE COURT: And then, these are without prejudice if
11 necessary at a later time, seeking additional testimony.

12 MR. COFFEY: I understand, Your Honor. And our
13 approach was we certainly were not looking to take depositions
14 of those who we determined did not have or were likely to have
15 information about what we're doing. So the broader list was
16 who we thought we would need, subject to finding out we didn't
17 through the documents.

18 THE COURT: And, you know, that's fine, and you can
19 always tell your constituency that you asked and the Court said
20 no, okay. I see counsel here.

21 MR. WALTER: Just, I want to make a point of
22 clarification. Glen Walter for Dr. Nave.

23 THE COURT: Yes, sir.

24 MR. WALTER: Dr. Nave is scheduled for tomorrow. We
25 have offered him and that's fine. He did receive a broad

1 document request and part of our joinder to the opposition was
2 that he didn't have to produce additional documents, that was
3 just going to be the debtors' production and that he'd be
4 available for oral testimony. So I just wanted to clarify.

5 THE COURT: And that would be my order as well. I
6 think the debtor will produce documents. I'm not going to
7 require all the other parties to satisfy those production
8 requests at this time.

9 MR. COFFEY: Understood, Your Honor. And if we
10 may --

11 THE COURT: Okay. Because they were not the ones
12 that necessarily sought relief in this Court, as opposed to the
13 debtor.

14 MR. COFFEY: Understood, Your Honor.

15 THE COURT: Thank you.

16 MR. ADELSON: And I apologize, I missed -- are we
17 going forward with Mr. Pearson on Friday? He is available, he
18 is ready to go on Friday --

19 MR. COFFEY: We're going to need some more time to
20 prepare, so maybe we can talk after the hearing and pick a date
21 that works.

22 THE COURT: Okay. Why do you need more time?

23 MR. COFFEY: Your Honor, some of the information that
24 we've gotten, even over this past weekend, we believe is
25 potentially relevant to the sale process that Mr. Pearson was

1 involved in.

2 THE COURT: Right.

3 MR. COFFEY: We'd like an opportunity to digest that,
4 understand it, hone our deposition to the extent we can --

5 THE COURT: I'll give you additional time. I'll tell
6 you what I'll do, if you need more documents so you can hone
7 the time, I'll give you six hours with him as well or you can
8 take it Friday for eight hours.

9 (Counsel Confer)

10 MR. COFFEY: Your Honor, if we went forward on
11 Friday, I don't think it will be a productive use of anyone's
12 time.

13 THE COURT: Fine. Then I'll limit that to six hours
14 as well. Because it -- I'll give you the time so that you can
15 be more surgical in your approach. And, of course, as I said,
16 this does not preclude your ability to seek further discovery,
17 if cause is shown, all right?

18 MR. COFFEY: Understood, Your Honor. Thank you.

19 THE COURT: Thank you. Are any -- are there any
20 other depositions that you feel are essential prior to the
21 25th?

22 MR. COFFEY: Not prior to the 25th.

23 THE COURT: Thank you.

24 MR. COFFEY: On the schedule we're talking about now.

25 THE COURT: Thank you.

1 MR. ADELSON: Your Honor, just to be clear, Mr.
2 Pearson is only available on Friday before the 25th.

3 THE COURT: Well, then we won't have him on the 25th.
4 If he's not available -- I'm not going to order the gentleman
5 to be available if he's unavailable. If you want to take his
6 deposition for whatever good you think it'd do, I'm -- on
7 Friday he's available. That's clearly up to you folks.

8 MR. STARK: Can I --

9 MR. ADELSON: Go ahead.

10 MR. STARK: May I ask for clarification, Your Honor?

11 THE COURT: Sure, sir.

12 MR. STARK: Thank you. And I don't mean to be out of
13 order, but I'm trying to actually resolve issues and trying to
14 be constructive.

15 THE COURT: I always like that.

16 MR. STARK: Again, for the record, my name is Robert
17 Stark from Brown Rudnick.

18 THE COURT: Yes.

19 MR. STARK: Your Honor's proposal, as it was hinged
20 off of the debtors' paragraph, I think, 34 is perfectly
21 acceptable to us. We certainly --

22 THE COURT: I didn't see why it wouldn't be since it
23 basically grants the relief that you requested.

24 MR. STARK: Certainly. And, you know, obviously to
25 the extent that we take up the issue first about present

1 constitution and we deal with it and we're --

2 THE COURT: That's why I don't know that Pearson is
3 necessary for the 25th.

4 MR. STARK: And that's where I was headed for, in
5 fact. It's useful and it's efficient to use time when it's
6 available. And it's certainly useful and efficient, enable
7 people to know and understand so that we're knowledgeable when
8 we come here. And so we're happy to take the discovery and --

9 THE COURT: I mean, if it were one thing, if I knew
10 the proposed committee counsel and the members of the committee
11 had little or no familiarity with this case, and I know just
12 the opposite is true.

13 MR. STARK: Well actually, to be honest with you, and
14 it is a point of contention I have with that, Your Honor, and I
15 don't want to belabor the record, but the reality of it is, is
16 that we had some conversations every now and then. I met Mr.
17 Seligman for the first time today, okay. We had access to a
18 data room at some point and it was -- it's not what it purports
19 to be in terms of data in the room. I don't need to belabor
20 the point, but --

21 THE COURT: I've read your pleadings. I understand
22 what you said.

23 MR. STARK: But it's wrongful to conclude, Your
24 Honor, based upon what you've been provided that we are very
25 familiar with everything that's going on, because it's just not

1 true.

2 THE COURT: All right, then. I accept that.

3 MR. STARK: But for -- sorry.

4 THE COURT: But I do know that your firm had
5 participated, to some degree, that the second lien creditors
6 had been involved, that the second lien creditors certainly had
7 to be aware of what their position was, the limitations on
8 their participation based upon their own agreements. And so --

9 MR. STARK: Oh no, they understand their inter-
10 creditor agreement.

11 THE COURT: I mean, it is not as though I were
12 sitting here, frankly, with a number of trade vendors or other
13 unsecured creditors who really are at a loss to understand how
14 this came to occur, that were unaware of the restructuring
15 efforts, at least to some degree.

16 MR. STARK: Oh, I think everybody in the world knows
17 about Stations and Green Valley and what's happened --

18 THE COURT: Oh, you would be surprised.

19 MR. STARK: Oh maybe --

20 THE COURT: You would be startled. You do, your
21 clients do and then the people on the street get very confused
22 about what they heard.

23 MR. STARK: I understand, Your Honor, and I --

24 THE COURT: My point being, I tend to agree with you.
25 I'm not sure Pearson is needed by the 25th.

1 MR. STARK: I just came up to try to obviate and make
2 sure it was streamlined. As I see it, the issue is it's useful
3 to get the information that's available, it's useful to get a
4 process started, it's useful to enable when we have time that's
5 efficient and appropriate. If, on the other hand, he's not
6 available and they're not going to use him in the courtroom in
7 the next week --

8 THE COURT: I won't allow him to be used in the
9 courtroom on the 25th for the purpose of this hearing. If he's
10 not available, he's not available, he can't be used. It's that
11 simple.

12 MR. STARK: But the contours follow it a bit further.
13 If we're going into the room and we're going to say on the 25th
14 the issue number one, once we've gotten past the other plans,
15 is whether or not this committee is appropriately constituted,
16 and if it is appropriately constituted or it needs supplemental
17 or something like that, it will continue on in a going forward
18 way. It will not be a committeeless case, in other words, and
19 then at that point in time we can reset on issues that are
20 relevant to plan confirmation.

21 THE COURT: I would intend to use the remainder of
22 that day as a status conference and scheduling conference and
23 we will go forward. And the parties should consider, and be
24 prepared on that date to provide me with information regarding
25 the discovery that is necessary.

1 MR. STARK: Uh-huh.

2 THE COURT: You will not have a great deal of time.
3 I will guarantee you, I'm going to be meeting with my courtroom
4 deputy and trying to find the time in the event that I believe
5 or find that the committee is presently constituted.

6 MR. STARK: And we'll take the challenge --

7 THE COURT: So everybody should understand that.
8 There is not going to be any long delay. Now, I know that
9 there's certain deadlines, but I also know those deadlines are
10 imposed by those that have an interest in the result and a
11 certain amount of flexibility might exist, but they are what
12 they are at this time. So I understand all of that and we
13 would do it on that basis.

14 MR. STARK: We understand. If he's not prepared to
15 go forward, and he won't be at the hearing, then we'll move
16 forward. I gather what I think is, is Mr. Coffey and Mr. Agay
17 or Seligman can sit and talk about it and if --

18 THE COURT: Look --

19 MR. STARK: -- they can figure it out amongst
20 themselves.

21 THE COURT: -- I've got good lawyers and good law
22 firms. This is not the first time you've been in this
23 position. Let's get it done. I am not going to allow the
24 broad discovery that you wanted. I am not going to limit it
25 necessarily to what you wanted to limit it to. I am prepared

1 to issue rulings restricting that, but I really think that
2 going forward with the process that I've indicated might
3 assist. Okay. Thank you.

4 MR. STARK: Thank you, Your Honor.

5 THE COURT: Is there anything from -- I'm sorry, go
6 ahead, Mr. Murphy.

7 MR. MURPHY: If I may be heard?

8 THE COURT: Sure.

9 MR. MURPHY: Thank you. Once again, Ben Murphy of
10 Dewey LeBoeuf for the steering committee of first lien lenders.

11 THE COURT: Yes, sir.

12 MR. MURPHY: I wanted to follow up on two points that
13 were raised in argument, and begin with the last point, which
14 is timing. Your Honor mentioned the ticking fees, \$1.75
15 million, May 1 to June 1. I think that's an illustration of
16 how deeply concerned about timing the first lien lenders were
17 in reaching their agreement over this matter of disclosing of
18 their collateral under the plan.

19 We appreciate the Court's comments about the need to
20 keep the process on track. It's not only because that's going
21 to conceivably save money to the estate through -- save money
22 on the purchase price, but it's more importantly because the
23 parties have worked for a long period of time in a coordinated
24 process that involves proceedings in the bankruptcy court and
25 proceedings before other state authorities designed to get all

1 this done at the same time.

2 THE COURT: I assume you're talking about the gaming
3 regulators?

4 MR. MURPHY: I am. So we appreciate the Court's
5 comments that long delays are not something that the record
6 would --

7 THE COURT: I've already indicated, I'm going to
8 inconvenience other people to get this done. And that's why my
9 tolerance level for long pleadings, argument, for unsupported
10 allegations, and I could even point out some now. I went
11 through this -- but, you know, when I read some of these
12 statements, when the committee says it's understanding and I go
13 well, what's that based on? That the aspersions of Mr. Bible,
14 I'm going, what's that based upon? Who's understanding? I'm
15 looking at Page 7, Line 1, Page 14 -- I mean, I went through
16 that. I'm not -- my point is, if there are issues, let's deal
17 with the issues --

18 MR. MURPHY: Well, Your Honor, we read --

19 THE COURT: And don't waste -- and don't waste
20 everybody's time and money on matters that have no basis. It's
21 almost like there should be a prima facie case before we invest
22 millions of dollars.

23 MR. MURPHY: And -- and --

24 THE COURT: And I'm just providing fair warning.
25 That's how I'm looking at it.

1 MR. MURPHY: And, Your Honor, that's why we filed --
2 the steering committee filed the pleading we did, as an
3 objection to the motion to adjourn. I mean, we're here on
4 discovery, but the fundamental reason these litigants don't
5 deserve discovery, we're not objecting to the arrangements that
6 have been put on the record for a moment --

7 THE COURT: Oh, and I think the documents from
8 Wilmington Trust should be provided. You said you provided
9 some over the weekend?

10 MR. ADELSON: I think that they've all been provided.

11 THE COURT: I was going to make that ruling too, just
12 before I forgot.

13 MR. MURPHY: But we want to make sure that it's clear
14 that our position is not only the litigants don't deserve to be
15 on a committee, but that they don't have a right to begin the
16 litigation in which they're seeking documents and witnesses in
17 the first place.

18 THE COURT: I understand your position and that's
19 what I have to resolve on the 25th.

20 MR. MURPHY: And we appreciate that the concern for
21 the dollars has come through loud and clear from the Court so
22 many times today as well. There is no question that the
23 benefit of the bargain --

24 THE COURT: Well, that's why I made sure, and I
25 entered a separate order, even though I thought it was clear as

1 a result of the April 14th hearing, that the fee examiner will
2 be examining all fee requests, by any professional, in any of
3 these jointly administered cases.

4 MR. MURPHY: Well, and it's part of the benefit of
5 the first lien lender's bargain. If they can come forward to
6 dispose of their collateral in this Court -- they can do it
7 other ways too, but they can come forward to this Court without
8 the risk that second lien creditors will seek to disrupt that
9 transaction or threaten it in any way. In fact, it's quite
10 clear that it is their bargain as well, that they don't have a
11 risk of delay even if there weren't a threat to the transaction
12 which, you know, we believe there is, but Your Honor has hit on
13 the key point that I wanted to emphasize.

14 The use of the first lien lender's cash collateral
15 for this effort is a fundamental violation of the bargain that
16 was struck through the inter-creditor agreement. The senior
17 lenders were entitled to know that this sort of effort would
18 not impede their progress or take their money. So we hope that
19 we can get through this in a way that vindicates and enforces
20 the rights of the senior creditors.

21 THE COURT: I understand your position.

22 MR. MURPHY: Thank you, Your Honor.

23 THE COURT: Anybody else have anything? Counsel?

24 MS. TURNER: Good morning, Your Honor. Erika Pike
25 Turner of Gordon Silver on behalf of the Seaport Group and

1 Oppenheimer. I had a housekeeping question. I know there's
2 been discussion of Mr. Pearson being deposed. Can all of the
3 documents that are determined appropriate for production go
4 through the debtors or does he have a separate --

5 THE COURT: At this time, in case there was any
6 question, that's my ruling as of this time.

7 MS. TURNER: Okay. Very good. Thank you.

8 MR. ADELSON: So, Your Honor, can we clarify what
9 will take place on the 25th --

10 THE COURT: Yes, sir.

11 MR. ADELSON: -- for GVR, please?

12 THE COURT: That's a good idea.

13 MR. ADELSON: My understanding is that the first
14 thing that will be taken up is whether or not the committee is
15 properly constituted.

16 THE COURT: No, let me go through what's going to
17 happen on the 25th.

18 MR. ADELSON: Thank you.

19 THE COURT: I'm going to deal with the subsidiary
20 debtors' plan of reorganization. I will deal with the Aliante
21 plan of reorganization.

22 I believe the motion to adjourn will be moot, based
23 upon what I'm doing now. The issues raised in there -- in that
24 motion would be, if allowed, and would be heard if, in fact, I
25 find the committee is properly constituted, because the basis

1 for the motion to adjourn was the more substantive issues.
2 I've already tried to address one of them. I'm not very
3 persuaded by the critical vendor issue. I think I addressed
4 that two months ago, but that's -- you disagree, of course, I'd
5 be glad to hear that.

6 So I think after subsidiary debtors, after Aliante,
7 then I'll deal with the application by the debtor, it says to
8 direct the U.S. Trustee to remove the second lien creditors.
9 That's really the composition of the committee. That would be
10 the third matter. And the reason I would put that third is
11 then if I did find -- were to find that the committee is
12 properly constituted, is that I would deal with the employment
13 applications. I would point out that I will allow Brown
14 Rudnick and Downey and Brand to make the arguments regarding
15 the composition of the committee. I don't think there'd be any
16 objection to that?

17 MR. ADELSON: There isn't.

18 THE COURT: Then there's a motion to assume lease or
19 executory contract and cure amounts for the confirmed plan on
20 behalf of Northern Nevada Acquisition, but that has to deal, I
21 -- isn't that with the subsidiary debtors?

22 MR. KRELLER: That is, Your Honor.

23 THE COURT: And that's -- I'll deal with that issue
24 as well. Then motion for turnover of cash collateral with
25 proposed filed on behalf of FCP Propco, but that's also with

1 the subsidiaries. I'll hear that matter.

2 The application to employ Seaport as -- I will deal
3 with. I will deal with the application -- oh, there's two
4 applications for Seaport. One Aliante, one in the GVR case.
5 Then Oppenheimer, I guess I was a little confused. If Seaport
6 -- why both Oppenheimer and Seaport in Aliante, especially if
7 I'm going to confirm the -- because there's no opposition to
8 the Aliante plan. Can somebody explain to me what's occurring
9 there?

10 MR. SELIGMAN: Your Honor, David Seligman on behalf
11 of the debtors. Your Honor, because the -- Mr. Pearson and his
12 group went from Oppenheimer to Seaport, that's obviously the
13 Seaport application. Because there obviously is residual
14 documents that couldn't go along --

15 THE COURT: Why didn't I hear these on the 14th of
16 April?

17 MR. SELIGMAN: Because the -- the movement was in the
18 process of taking place at that time and we didn't want to file
19 something prematurely. So the retention of Oppenheimer is very
20 limited in scope. It's just to the extent that there's clean
21 up stuff that people need. We just wanted to make sure that
22 they were retained.

23 THE COURT: I -- I don't -- thank you very much. So
24 that's what I plan on hearing on that date.

25 MR. ADELSON: And just for clarification --

1 THE COURT: And to make it clear, I will conduct a
2 scheduling and status conference pursuant to Section 105(d) of
3 the code and also a scheduling conference pursuant to Rule 26
4 for discovery.

5 MR. ADELSON: And for clarification, based on Your
6 Honor's indication --

7 THE COURT: And I'm going to ask the parties to
8 prepare and file, without a lot of argument, but a proposed
9 discovery plan with specific -- not the broad 85 and 44
10 questions. You don't have time to ask for them, you don't have
11 time to get the response, you don't have time to analyze it.

12 MR. ADELSON: We understand, Your Honor.

13 THE COURT: Okay.

14 MR. ADELSON: Because the Court is moving the
15 confirmation hearing and the motion to adjourn is now moot, I
16 assume we don't have a deadline to file --

17 THE COURT: I will give you -- no.

18 MR. ADELSON: Okay.

19 THE COURT: A deadline regarding what?

20 MR. ADELSON: To file an opposition to the motion to
21 adjourn.

22 THE COURT: Look, really as I see it, the motion --
23 you've got a different name for it, but dissolve the committee
24 really is in response to the motion to adjourn. It's the
25 composition. I need to make that determination. Why -- I

1 don't need a lot of argument on adjournment because I've
2 adjourned it.

3 MR. ADELSON: Right.

4 THE COURT: The remainder of that motion really is an
5 objection to the proposed plan. Without reading all of the
6 pleading, because it exceeded my page limitations, I would bet
7 a dollar that much of the argument would be similar to what was
8 contained in the motion to adjourn.

9 MR. ADELSON: That's exactly right and that was my
10 point, is that we would rather not have to file an
11 opposition --

12 THE COURT: You don't have to.

13 MR. ADELSON: Great. Thank you. And the other --

14 THE COURT: And I don't need a reply. I -- the
15 motion to adjourn is moot. The substantive matters, I assume,
16 are contained in your plan objection; is that correct?

17 MR. STARK: Yes. Would you prefer that we withdraw
18 it?

19 THE COURT: Don't have to. It's on file, it's there.
20 In effect, I've granted it for procedural reasons rather than
21 substantive reasons.

22 MR. ADELSON: We understand.

23 THE COURT: Just so that that's clear. Is that
24 acceptable?

25 MR. STARK: Yes, Your Honor.

1 THE COURT: Okay.

2 MR. ADELSON: And I assume that the deadlines for
3 filing confirmation briefs and things like that --

4 THE COURT: We'll deal with all those on the 25th.

5 MR. ADELSON: Perfect. Thank you.

6 THE COURT: Because by then I'll have a date. Look,
7 there's not going to be a great deal of time. My courtroom
8 deputy already hates me, so you know, we're just going to have
9 to do what we can to find time, and that's the best I can tell
10 you.

11 MR. ADELSON: Good. Thank you very much.

12 THE COURT: These are not the only cases in this
13 Court.

14 (Court and Clerk Confer)

15 THE COURT: Are there any other issues that I need to
16 resolve now?

17 MR. STARK: Not from the committee's perspective,
18 Your Honor.

19 THE COURT: I want you to prepare the order regarding
20 the motion to adjourn --

21 MR. STARK: I'd be happy to.

22 THE COURT: -- saying that it has been granted on
23 procedural rather than substantive issues and that it will be
24 reset at the hearing conducted May 25th.

25 MR. STARK: That it will be reset?

1 THE COURT: The confirmation hearing will be reset.

2 MR. STARK: Yes, Your Honor, we'll prepare that.

3 THE COURT: And have counsel for the debtor sign off
4 on that order pursuant to Local Rule 9021, please.

5 MR. STARK: Happy to.

6 THE COURT: I need counsel for the debtor to prepare
7 an order that grants in part and denies in part the request for
8 protective order. And it also grants in part and denies in
9 part the motion to compel. And set forth in exactly the
10 discovery I have ordered. The depositions of Dr. Nave and Mr.
11 Bible with the time limitations, that none of the other
12 entities or individuals who were served with requests for
13 production need to respond until further order of this Court,
14 and that the parties have agreed, and will enter into, an
15 appropriate confidentiality agreement and that the debtor has
16 provided documents and has agreed, I believe, to provide
17 additional documents; is that correct?

18 MR. ADELSON: No, Your Honor.

19 THE COURT: No. That it will provide all of the
20 documents that were requested of Wilmington Trust.

21 MR. STARK: That's correct.

22 THE COURT: That will be the document production to
23 date, and that's all I'm ordering. And then the order should
24 contain that the order is not and shall not be a bar to any
25 further discovery requests and that I will conduct a discovery

1 and scheduling conference on May 25th pursuant to Sections
2 105(d) of the Code and Federal Bankruptcy Procedure 26. I
3 think that will take care of it. Is that acceptable?

4 MR. STARK: From us yes, Your Honor.

5 THE COURT: Submit that order to counsel for the
6 committee to sign off under Local Rule 9021.

7 I think that's all I need to enter at this time.
8 Have I missed anything? Okay, thank you all very much.

9 Now, I don't -- if you're not going to argue on the
10 25th, you don't have to be here. If you want to monitor it,
11 that's fine. In other words, let's be efficient and economical
12 with the parties that are here as well, because I know it's
13 expensive to come here. I know what airplane fares are now,
14 all right. Thank you all very much.

15 THE CLERK: All rise.

16 (Proceedings Concluded)

17
18
19 I certify that the foregoing is a correct transcript from
20 the record of proceedings in the above-entitled matter.

21
22 Dated: May 20, 2011


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